

49. (New) The data acquisition system of claim 10 wherein the media link is a hyperlink.

50. (New) The program identification system of claim 24 wherein the media link is a hyperlink.

### **REMARKS**

The applicants have carefully considered the Office action dated August 1, 2003 and the reference it cites. By way of this response, claims 25 and 36-47 have been cancelled without prejudice to their further prosecution, claims 1, 3-6, 10, 18, 24, and 26-30 have been amended, and new claims 48-50 have been added. In view of these amendments and the following remarks, it is respectfully submitted that all pending claims are in condition for allowance and favorable reconsideration is respectfully requested.

As an initial matter, the applicants note that this application is a continuation-in-part of U.S. Patent Application Serial No. 09/226,521. In reviewing the Office action, the undersigned noticed that the claims filed in the current application were very similar to the claims filed in the parent application<sup>1</sup>. To eliminate this unwarranted duplication, the applicants are abandoning the parent application without prejudice to pursuing the claims of that application in the current application or elsewhere as the case may be.

To make the record complete, an information disclosure statement citing all of the art from the parent application is being filed simultaneously

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<sup>1</sup> The meaning of the term "media link" has been clarified, and possibly broadened, in the specification of this continuation-in-part application.

with this response. Some of that art will be discussed in detail below after addressing the art rejections made in the Office action of August 1, 2003.

Also, the Office action did not return signed copies of the PTO-1449 forms submitted with the information disclosure statement on January 18, 2002. A duplicate copy of that information disclosure statement, the PTO-1449 forms, and the stamped postcard demonstrating receipt of the same at the USPTO are enclosed as Appendix A for the Examiner's convenience. The Examiner is respectfully requested to return signed copies of the PTO-1449 forms with the next official communication in this application.

As a final initial matter, the correspondence address for this application has been changed as shown in Appendix B.

Turning to the substance of the Office action of August 1, 2003, the Office action rejected all of the claims pending in this application as being unpatentable over one or more of Shoff et al., U.S. Patent 6,240,555 (Shoff) and Menard et al., U.S. Patent 6,061,056 (Menard). Applicants respectfully traverse these rejections.

Independent claim 1 recites a detection apparatus to identify a program comprising, among other things, a meter to record a media link embedded in a tuned program; and a program identifier to identify the tuned program based on the media link recorded by the meter. Shoff, the only reference applied against claim 1, does not teach or suggest such an apparatus. On the contrary, rather than identifying a program based on a media link embedded in the broadcast program itself, Shoff assumes foreknowledge of the identity of the broadcast program and uses that knowledge of the broadcast program to identify a media link. In other words, whereas the apparatus of claim 1 is

directed to determining the identity of a broadcast program based on a media link, the Shoff system determines the identity of a media link based on the broadcast program. Thus, the Shoff system teaches the opposite of the apparatus recited in claim 1 and cannot be fairly said to teach or suggest the combination recited in that claim. Therefore, it is clear that claim 1 is not anticipated by Shoff et al.

Independent claim 10 is also patentable. In particular, claim 10 recites a data acquisition system including a meter to capture first and second program identifying data identifying a tuned program, wherein the first program identifying datum is a media link embedded in the program which, when activated, initiates a request for information from a content provider via a network. Menard, the reference applied against claim 10, does not capture activatable media links embedded in a tuned program. On the contrary, Menard uses the closed captioning portion of a tuned program to perform a text based search against manually input user preferences to determine if the tuned program is of interest to the user. The closed captioning information cannot be activated to initiate a request for information from a content provider via a network. Therefore, it is clear that Menard does not capture an activatable media link from the tuned program and, thus, does not teach or suggest the combination recited in claim 10.

Independent claim 24 is also allowable. Claim 24 recites a program identification system comprising, among other things, a comparator arranged to generate a subset of reference signatures from a library of reference signatures based upon a media link extracted from a tuned program, and to compare a broadcast signature extracted from the tuned program to the subset

of reference signatures. Neither Menard nor Shoff appear to be related to generating a subset of reference signatures from a library of reference signatures. Thus, neither of those references teaches nor suggests generating such a subset based on a media link extracted from a tuned program, or comparing a broadcast signature extracted from the tuned program to the subset of reference signatures. Accordingly, claim 24 and all claims depending therefrom should be allowed.

Claim 29, which has been rewritten in independent form, is also allowable. Claim 29 recites a program identification system comprising a meter arranged to detect closed captioning information from a program carried in a channel tuned by the tuner and to extract a broadcast signature from the program; and a comparator arranged to compare the broadcast signature to a reference signature selected from a library of reference signatures based upon the closed captioning information. The Office action rejected this claim as being anticipated by Menard. However, while the Menard Patent certainly compares closed captioning data to keywords to determine if the program associated with the closed captioning information is of interest to a viewer associated with the keywords, Menard does not teach or suggest using closed captioning information to select a reference signature from a library *and then* comparing a broadcast signature to the selected reference signature as recited in claim 29. Accordingly, Menard does not teach or suggest the system recited in claim 29.

Arguments and claim amendments similar to those presented above<sup>2</sup> were made in the parent application. In response, the Office withdrew the rejections based on Shoff and Menard, and issued a new Office action rejecting all of the pending claims as unpatentable over one or more of Thomas et al., U.S. Patent 5,481,294, Lert, Jr. et al., U.S. Patent 4,677,466, Killian, U.S. Patent 6,163,316, and Lu et al., U.S. Patent 5,594,934; (all of which, except for Killian, are commonly owned with the current application by the Nielsen companies). The applicants respectfully traverse those rejections and, in the following, will explain why those rejections are in error and why the pending claims should be allowed.

Turning first to claim 1, the Office action in the parent application rejected claim 1 as being anticipated by Thomas et al. The Office action made this rejection by misreading the term “media link.” In particular, the Office action argues that the program signatures extracted by the Thomas apparatus are “media links.” However, a program signature is a representation of a portion of the broadcast program, it is not a media link as defined in the specification of this application. Indeed, applicants’ specification expressly defines the term “media link” as follows:

as used herein, media links include URLs embedded in video and /or audio that link a content recipient to content provided by a content provider (such as a web site) or to content provided elsewhere in the video and/or

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<sup>2</sup> Claim 29 was not rewritten in independent form in the parent case. Thus, the argument concerning claim 29 has not previously been presented to the Office. Because there are other differences between the claims and arguments presented via this amendment and the claims and arguments presented in the parent case, the Examiner is expressly encouraged to consider these amendments and arguments afresh without reliance on the previous decision made in the parent case.

audio whether such content is stored in cache or not.

(Specification, Page 1, line 17 – Page 2, line 1). Further, in the examples given in the specification, the disclosed apparatus and methods are capable of detecting media links and extracting signatures (See, e.g., specification, page 13, lines 8-10). Therefore, it is quite plain that the applicants' specification uses the term "media link" to be something different than a program signature. Accordingly, the Office action's reading of Thomas et al. as anticipating claim 1 is based on an unreasonably broad misreading of the term "media link." As such, the rejection is plainly in error and cannot be sustained. Accordingly, claim 1 and all claims depending therefrom must be allowed.

The Office action in the parent application rejected independent claim 10 (claim 9 in the parent application) as being unpatentable over Thomas et al. in view of Killian. However, claim 10 recites a data acquisition system including a meter to capture first and second program identifying data identifying a tuned program, wherein the first program identifying datum is a media link embedded in the program which, when activated, initiates a request for information from a content provider via a network. As discussed above, Thomas et al. does not disclose or suggest using a media link embedded in a program to identify the program. Indeed, Thomas et al. has no disclosure whatsoever of a media link embedded in a program.

Killian, on the other hand, does describe, for example, media links embedded in the vertical blanking interval of a television signal. (See, for example, Killian, Col. 5, lines 39-50). However, while Killian plainly describes the prior art concept of embedding a media link in a program, there is no hint in Killian of utilizing that link to identify the tuned program.

Indeed, Killian does not appear to disclose metering programs at all, but instead is focused on presenting programs and other content such as Internet accessible content on the same television screen. Since neither Thomas et al. nor Killian et al. give any hint of employing a media link embedded in a tuned program to determine the identity of that tuned program, combining those references does not teach or suggest the invention recited in claim 10. Accordingly, claim 10 and all claims depending therefrom must be allowed.

The Office action in the parent application rejected independent claim 24 (claim 22 in the parent application) as being unpatentable over Thomas et al. However, claim 24, as amended, recites a meter to detect a media link embedded in a program. As discussed above, Thomas et al. has no disclosure or suggestion of detecting such media links. Further, claim 24 recites a comparator to generate a subset of reference signatures from a library based upon the media link, and to compare the broadcast signature associated with the program from which the embedded link was detected to the subset of reference signatures. While Thomas et al. does disclose performing clustering or other sorting techniques to minimize the size of the reference library (see Thomas et al., Col. 19, lines 18-32, citing to Lert, U.S. Patent 4,677,466), Thomas et al. makes no disclosure or suggestion of using a media link embedded in a program to select a subset of the library for comparison to a broadcast signature as recited in claim 24.

The reference to the Lert Patent does not overcome the deficiency of the Thomas et al. Patent. Whereas Lert does disclose comparing signatures against one another to remove duplicates (Col. 5, lines 27-29) and using a hash code representation of the signature to perform a preliminary search for

candidate reference signatures (Col. 9, lines 63-65), Lert makes no reference to using a media link extracted from the program to select a subset of reference signatures for comparison to a broadcast signature as recited in claim 24. Accordingly, claim 24 and all claims depending therefrom should be allowed.

The Office action in the parent application rejected claim 29 (claim 26 in the parent application) as being unpatentable over Thomas et al. when considered in view of Killian. However, as explained above, claim 29 recites a program identification system comprising a meter arranged to detect closed captioning information from a program carried in a channel tuned by the tuner and to extract a broadcast signature from the program; and a comparator arranged to compare the broadcast signature to a reference signature selected from a library of reference signatures based upon the closed captioning information. While Killian certainly describes extracting closed captioning information from the vertical blanking interval of a broadcast program, neither Thomas et al. nor Killian contemplate (1) using closed captioning information to select a reference signature from a library or (2) comparing a broadcast signature of a broadcast program associated with the closed captioning information to the selected reference signature as recited in claim 29. Accordingly, no matter how one combines Thomas and Killian, absent improper consideration of the teachings of the instant application, one would not arrive at the system recited in claim 29.

In view of the foregoing, it is respectfully submitted that all pending claims are patentable over the art of record.



Before closing, the applicants note that the amendments made throughout the claims are either broadening or clarifying with the exception of the following:

- a) the addition of the program identifier to claim 1;
- b) the addition of the phrase “which, when activated, initiates a request for information from a content provider via a network” to claim 10;
- c) the recitation that a comparator generates the subset of reference signatures added to claim 24;
- d) amending “content ancillary information” to “a media link” in claim 24 and its dependent claims; and
- e) the recitation that the comparator generates the second subset of references added to claim 30.

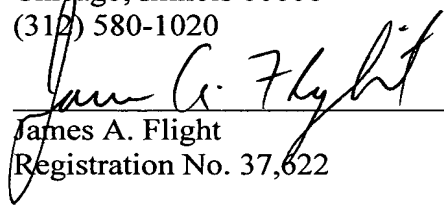
All other amendments not mentioned in the above list (a)-(e) are either broadening or are merely clarifying in that the amended claims are intended to state the same thing as the claim prior to amendment (i.e., to have the same scope both before and after the amendments) in a more easily understood or more conventional fashion. Consequently, the amendments not specified in the above list (a)-(e) do not give rise to prosecution history estoppel or limit the scope of equivalents of the claims under the doctrine of equivalents.

If the Examiner is of the opinion that a telephone conference would expedite the prosecution of this case, the Examiner is invited to contact the undersigned at the number identified below.

Respectfully submitted,

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By:

  
James A. Flight  
Registration No. 37,622

**December 5, 2003**



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DEC 11 2003

Technology Center 2600

Commissioner for Patents  
Washington, D.C. 20231

Date: 1, 18, 02  
Mo. Day Yr.

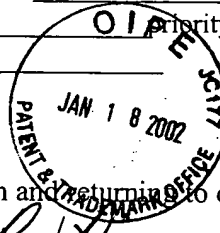
Atty. Docket 12777-133

Sir:

Application No. 09/955,691

Kindly acknowledge receipt of the accompanying:

- ☐ Response to Official Action.
- ☐ Check for \$ \_\_\_\_\_ (claims fee)
- ☐ Petition under 37 CFR 1.136 and Check for \$ \_\_\_\_\_
- ☐ Notice of Appeal and Check for \$ \_\_\_\_\_
- ☒ Information Disclosure Statement, PTO-1449 and 7 documents
- ☐ Claim for priority and certified copies of \_\_\_\_\_ priority applications
- ☐ Issue fee transmittal and Check for \$ \_\_\_\_\_
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Date: 1, 18, 02  
Mo. Day Yr.

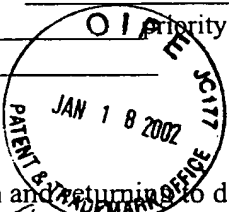
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- ☐ Claim for priority and certified copies of \_\_\_\_\_ priority applications
- ☐ Issue fee transmittal and Check for \$ \_\_\_\_\_
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Atty. JAG:qr Due Date 11 01 02  
Mo. Day Yr.



12722.00133

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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DEC 11 2003

In re Application of: )  
DAVID A. HARKNESS, ET AL. )  
Application No.: 09/955,691 )  
Filed: September 19, 2001 )  
For: DETECTION OF MEDIA LINKS )  
IN BROADCAST SIGNALS )

Examiner: Unassigned

Group Art Unit: 2711

January 18, 2002

Technology Center 2600

Commissioner for Patents  
Washington, D.C. 20231

INFORMATION DISCLOSURE STATEMENT

Sir:

In compliance with the duty of disclosure under 37 C.F.R. § 1.56 and in accordance with the practice under 37 C.F.R. §§ 1.97 and 1.98, the Examiner's attention is directed to the documents listed on the enclosed Form PTO-1449. Copies of the listed documents are also enclosed.

FORMAL MATTERS

In accordance with 37 C.F.R. § 1.97(b)(3), since a first Official Action on the merits of the subject application has not yet been issued, neither a certificate, petition nor



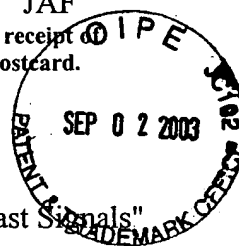
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Technology Center 2600

Docket No. 20004/35-US 8/27/03 JAF

The Patent Office is hereby requested to acknowledge receipt of the following papers by stamping and returning this postcard.



U.S. Serial No. 09/955,691

Inventor(s): Harkness et al.

For: "Detection of Media Links in Broadcast Signals"

Power of Attorney, Revocation of Prior Powers and Change of Correspondence Address (2 pages)

w/Certificate of mailing by first class mail dated August 27, 2003



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PATENT  
Docket No. 20004/35-US

IN THE UNITED STATES PATENT  
AND TRADEMARK OFFICE

Applicant(s):

Harkness et al.

U.S. Serial No.: 09/955,691

For: "Detection of Media Links in  
Broadcast Signals"

Filed: September 19, 2001

Group Art Unit: 2711

Examiner: Unknown

) I hereby certify that this paper and the  
) documents referred to as enclosed  
) therewith are being deposited with the  
) United States Postal Service as first  
) class mail, postage prepaid, in an  
) envelope addressed to Commissioner  
) for Patents, P.O. Box 1450,  
) Alexandria, Virginia 22313-1450 on  
) this date:

Date:

*August 27, 2003*  
*James A. Flight*  
James A. Flight  
Attorney for Applicant(s)  
Registration No. 37,622

POWER OF ATTORNEY, REVOCATION OF PRIOR POWERS AND  
CHANGE OF CORRESPONDENCE ADDRESS

Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Sir:

NIELSEN MEDIA RESEARCH, INC., the assignee of record of the entire  
interest in the above-identified application, as evidenced by the chain of title from the  
original owner(s) to the assignee as recorded in the assignment of records of the  
Office at reel/frame 012436/0078, hereby revokes all Powers of Attorney previously  
given in this application.



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POWER OF ATTORNEY: The following attorneys are hereby appointed with full powers of substitution and revocation, to prosecute this application and transact all business in the Patent and Trademark Office connected therewith:

James A. Flight (37,622)	Mark C. Zimmerman (44,006)	James F. Goodfien (44,715)	Mark G. Hanley (44,736)
Frankie Ho (48,479)	Joseph T. Jasper (50,833)		

of Grossman & Flight, LLC., Suite 4220, 20 North Wacker Drive, Chicago, Illinois 60606.

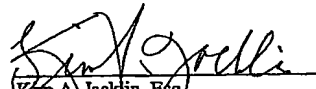
I have reviewed the Assignment documents, and to the best of assignee's knowledge and belief, title is in the assignee seeking to take action.

CHANGE OF CORRESPONDENCE ADDRESS: Send all correspondence and direct all telephone calls related to this application to: James A. Flight, Registration No. 37,622, Grossman & Flight, LLC., Suite 4220, 20 North Wacker Drive, Chicago, Illinois 60606, telephone number (312) 580-1020.

The undersigned is authorized to execute this document on behalf of the assignee.

NIELSEN MEDIA RESEARCH, INC.  
770 Broadway  
New York, New York 10003

By:

  
Kim A. Jacklin, Esq.  
Chief Patent Counsel

Date: August 26, 2003